

CIVIL DOCKET
UNITED STATES DISTRICT COURT

BOHANON

71-C-226

Jury demand date: 4-11-72

D. C. Form No. 106A Rev.

8

TITLE OF CASE		ATTORNEYS			
<p>JACK S. BURDEN</p> <p>vs</p> <p>UNITED STATES OF AMERICA</p> <p>vs</p> <p>TRANSWESTERN PIPELINE COMPANY, <i>deceased</i> a corporation</p>	<p>For plaintiff:</p> <p>MARTIN, LOGAN, MOYERS, MARTIN & CONWAY Messrs. John H. Conway, Jr. 582-5281 John M. Imel & Donald P. Moyers 920 National Bank of Tulsa Bldg. Tulsa, Oklahoma 74103</p> <p>George Downey N.B.T. Bldg. Tulsa, Okla. 74103</p> <p>For defendant:</p> <p>Nathan G. Graham Robert P. Santee</p> <p>Fleming T. deGraffenried Attorney, Tax Division Department of Justice 8E2 Federal Building Dallas, Texas 75202</p> <p>Hall, Estill, Hardwick, Gable & Collingsworth (Transwestern) NBT Bldg., Tulsa 74103</p> <p>Vinson, Elkins, Searls & Smith 2100 First City Natl. Bank Bldg. Houston, Texas 77002</p>				
<p><u>Additional counsel for defts.</u> Boesche, McDermott & Eskridge(Transwest 1300 NBT Bldg. Tulsa, Oklahoma 74103</p> <p>James W. McCartney, Ben H. Rice, Ted A. Hodges, 1st City Natl. Bank Bldg. Houston, Texas 77002</p>					
STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed 7-1-71	Clerk	6-18-71	Imel	15 00	15 00
		6-24-71	C.D.No.56		
		10-30-72	Imel	5 00	
J.S. 6 mailed 8-1-72	Marshal	11-2-72	C.D.No.20		5 00
		5-15-74	Burden	61 50	
		5-16-74	C/D #45		61 50
Basis of Action: Recovery of Penalty Taxes	Docket fee				
	Witness fees				
Action arose at:	Depositions				

DATE	PROCEEDINGS	Date Order or Judgment Noted
6-18-71	Complaint filed. Summons issued. r	
6-18-71	Summons, returned & filed: served U. S. Atty. at Tulsa, mailed by certified mail 2 copies to Atty. Gen., and I.R.S., at Wash. D. C., all on 6-18-71. (USM \$3.00)g	
8-16-71	Deft's Motion for enlargement of time within which to answer or otherwise plead, with brief in support, filed. r	
8-18-71	Order that deft, U.S.A. have from 8-17-71 to and including 9-16-71 within which to answer or otherwise plead. Filed. (LB-J)r	
9-20-71	Answer, filed. m (and counterclaim)	
9-30-71	Notice to take deposition of Jack S. Burden at 2 p.m., 10-5-71, filed. g	
10-6-71	Pltfs' Reply to the Courterclaim of the Deft., filed. r	
10-7-71	Deft's Interrogatories to Pltf., filed. r	
10-29-71	Defendant's Second Interrogatories to Plaintiff, filed. v	
10-29-71	Request for Admissions, filed. v	
11-5-71	Plaintiff's answers to defendant's first set of interrogatories, filed. ds	
11-24-71	Return on U.S. Marshals Service, Subpoena, filed. v	
	Served Wayne King in Tulsa, Okla., on 11-22-71, with fees of \$2.00.	
11-30-71	Pltf's Answers to Defts' Request for Admissions, filed. r	
11-30-71	Pltf's Response to Defts' Second Set of Interrogatories, filed. r	
12-1-71	Case set for Pre-Trial on Dec. 15, 1971, at 1 P. M. (LB-J)v	
12-15-71	Case called for pre-trial hearing. Pltf. to file pre-trial order or stipulation of facts within 10 days. Case to be set for non-jury trial (1 day). (LB-J)m	
12-30-71	Pretrial order, filed. (LB-J)m	
1-3-72	Deposition of Jack Sterling Burden, on behalf of the Deft., taken on before Loyd J. Christesson, on 10-5-71, with fees of \$70.00, filed. v	
1-4-72	Case set for non-jury trial 1/13/72 at 9:30 a.m. (LB-J) rm	
1-12-72	Deposition of Wayne E. King on behalf of pltf., filed. (\$49.00)g	
1-13-72	Trial brief for the defendant, filed. hm	
1-13-72	Memorandum brief of the pltf., filed. hm	
1-13-72	Case tried to the Court. Parties present and represented. Court finds in favor of the plaintiff. Counsel for pltf. & deft. to prepare F/F & C/L and case to be set for further argument. (LB-J)(Bud Bailey-CSR)hm	
2-7-72	Case set for oral arguments 2-15-72 at 9:00 a.m. (LB-J)hm	
2-15-72	Case called for oral arguments. Court orders govt. to bring Trans-Western into lawsuit as a 3rd-party deft. within 20 days. Pltf. to prepare order. Court will enter F/F if govt. does not file 3rd-party complaint. (LB-J)hm	
2-15-72	F/F & C/L submitted by govt., filed. hm	
2-15-72	F/F & C/L submitted by pltf., filed. hm	
2-25-72	Pltf's application to join additional party deft. to counterclaim, filed.hm	
2-29-72	Order, filed, that Transwestern Pipeline Company is made an additional party deft. to counterclaim filed by USA & further ordered that summons be issued with copies of certain pleadings & that Transwestern answer within 20 days after service. (LB-J)hm (copies mailed) Summons issued.	
3-1-72	Deft's opposition to pltf's application to join additional party deft. to counterclaim, filed. hm	
3-9-72	Return of service of summons and other pleadings, filed. Served Trans-western Pipeline in Oklahoma City on 3/2/72 (USM \$4.00) rm	
3-21-72	Motion of Transwestern Pipeline Company to dismiss, with affidavit, filed. hm	

(continued)

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-21-72	Brief in support of motion to dismiss, filed. hm	
3-24-72	Order, filed, that motion to dismiss of Transwestern Pipeline is dismissed and that said deft. shall file its answer within 10 days. (LB-J)hm (copies mailed)	
3-29-72	Motion of Transwestern for extension of time to answer, filed. hm	
3-31-72	Ordered by the Court that additional party Deft., Transwestern Pipeline Co. is granted as additional ten (10) days from and after April 2, 1972, within which to answer the Counter-Claim of the Deft., U.S.A., filed. (LB-J)v	
4-6-72	Application of John S. Estill, Jr. atty. for Transwestern Pipeline Co. for Leave to Withdraw as Counsel of Record, filed. v -order to Judge Bohanon.	
4-6-72	Application of John Estill for leave to withdraw as counsel of record, filed. hm	
4-10-72	Order, filed, that John S. Estill, Jr., atty. for Transwestern, is granted leave to withdraw. (LB-J)hm (copies mailed)	
4-11-72	Motion of def. Transwestern to amend summons, and brief in support, filed. rm	
4-11-72	Answer of def. Transwestern to counterclaim of USA, filed. rm (with demand for jury)	
4-13-72	Transcript of proceedings at argument, 2-15-72, filed. (Sickles-CSR)g	
4-18-72	Order sustaining motion of Transwestern Pipeline to amend summons, filed, and directing that summons be amended by deleting certain portions. (LB-J)hm (copies mailed)	
4-26-72	Transcript of nonjury trial 1-13-72, filed. hm (S.J. Bailey, LSR)	
6-21-72	Case set for pre-trial 7-6-72 at 9:30 a.m. (LB-J)hm	
7-6-72	Case called for pre-trial hearing. Statements made. Mr. Rice, counsel for Transwestern, to prepare order to set aside Court's order overruling motion to dismiss of Transwestern. Court will then enter final order on suggested F/F & C/L heretofore filed by both parties. (LB-J)hm	
7-11-72	Order dismissing Transwestern Pipeline Company, filed and entered. (LB-J)hm (copies mailed)	
7-17-72	Findings of fact and conclusions of law, filed. (LB-J)hm (copies mailed)	
7-17-72	Judgment, filed and entered, that pltf. take nothing upon its complaint, that deft. USA have judgment against pltf. upon its counterclaim in sum of \$156,016.28, together with int. at rate of 6% per annum to date of judgment & thereafter at rate of 10% per annum until paid, & that deft. USA have judgment for costs. (LB-J)hm (copies mailed)	
7-20-72	Motion of the plaintiff for new trial and reconsideration of order as to Transwestern Pipeline, filed. v	
7-20-72	Memorandum in support of plaintiff's motion, filed. v	
7-24-72	Motion for new trial as to United States of America, filed. ds	
7-24-72	Memorandum in support of motion for new trial, filed. ds	
8-30-72	Hearing held on pltf's motion for new trial and reconsideration of order as to Transwestern and pltf's motion for new trial as to USA. Both motions overruled; pltf. to prepare order. Upon oral motion of govt. for modification of judgment, it is ordered that judgment be modified to reflect change in interest; govt. to prepare order. Court allows pltf. to appeal without posting of a supersedeas bond. (LB-J)hm	
8-31-72	Judgment, filed and entered, that deft. USA have judgment against pltf. upon its counterclaim in the sum of \$156,016.28 together with int. according to law; that pltf's complaint is dismissed with prejudice. (LB-J)hm (copies mailed)	

(over)

DATE	PROCEEDINGS	Date Order or Judgment Noted
9-26-72	Amended Order dismissing Transwestern Pipeline.(LB-J)rm-copies mailed	
9-28-72	Order, filed and entered, that pltf's motion for a new trial is denied. (LB-J)hm (copies mailed)	
10-30-72	Notice of appeal by pltf. filed. (cpies to USCA, US Atty., Fleming T. DeGraffenried.)g	
10-30-72	Bond on appeal, Continental Casualty Co., surety, filed. g	
11-30-72	Transcript of proceedings on motion for new trial (orig. & file cpy), filed. (FMS-Rptr.)g	
12-1-72	Appeal record (5 vols.) sent to USCA, 10th Circuit. g	
1-18-74	Ltr. from 10th Cir., advising petition for writ of cert. filed in Supreme Ct. on 1/11/74 and assigned No. 73-1100, filed. rm	
4-10-74	CC of Order of Supreme Court denying petition for Writ of Certiorari, filed. g	
4-10-74	Mandate & Opinion of USCA, 10th Circuit, affirming judgment of 8-41-72, filed and spread of record. g	
4-10-74	Statement of Costs taxed in favor of USA in sum of \$61.50, filed. g	
4-10-74	Appeal record (5 vols.) rec'd from USCA. g	
6-2-77	Execution issued.ho	
7-14-77	Return on USM service of execution, filed. Executed by serving Jack Burden, president, on 7-14-77 at Tulsa, OK, w/ fees of \$6.60. Nothing of value found.k	
8-19-77	Deft. USA release & satisfaction of judgment. fld. ho	